IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:22-CV-00459-BO

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)	<u>ORDER</u>
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This matter comes before the Court on the memorandum and recommendation ("M&R") by United States Magistrate Judge Robert T. Numbers, II. [DE 49]. Judge Numbers recommends that this Court dismiss Defendant OPW Fueling Components, LLC first partial motion to dismiss, [DE 8], as most because plaintiff filed an amended complaint prior to resolution of that motion. Defendant then filed a second partial motion to dismiss raising substantially many of the same arguments as its first motion [DE 18]. No responses to the M&R were filed before the deadline to do so expired.

A district court is required to review *de novo* those portions of a memorandum and recommendation to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). "[I]n the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."

Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

After reviewing the M&R and all relevant materials, the Court finds no clear error. Accordingly, the Court ADOPTS the M&R [DE 49] in its entirety. Defendant's first partial motion to dismiss [DE 8] is DISMISSED as MOOT.

SO ORDERED, this $\frac{27}{2}$ day of September, 2023.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE